

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

MIKAELA ELLENWOOD and  
JORGE CASANOVA,

Plaintiffs,

v.

Case No. 8:20-cv-1182-T-60AEP

WORLD TRIATHLON CORP.,  
COMPETITOR GROUP HOLDINGS,  
INC., and COMPETITOR GROUP, INC.

Defendants.

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**ORDER CONVERTING “DEFENDANTS’ MOTION TO DISMISS  
PLAINTIFFS’ AMENDED COMPLAINT AND STRIKE PLAINTIFFS’  
JURY TRIAL DEMAND” INTO A MOTION FOR SUMMARY JUDGMENT**

This matter is before the Court on “Defendants’ Motion to Dismiss Plaintiffs’ Amended Complaint and Strike Plaintiffs’ Jury Trial Demand,” filed September 8, 2020. (Doc. 41). Plaintiffs filed their response in opposition on September 22, 2020. (Doc. 42). The Court held a hearing on October 28, 2020. After hearing arguments at the hearing, reviewing the motion, response, court file, and record, the Court finds as follows:

Plaintiffs Mikaela Ellenwood and Jorge Casanova bring this purported class action suit against Defendants World Triathlon Corporation, Competitor Group Holdings, Incorporated, and Competitor Group, Inc. for failing to provide refunds for the Rock ‘n’ Roll Marathon Series races and Ironman events that were scheduled to take place in 2020 but were postponed or cancelled due to the global Covid-19 pandemic. In their amended complaint, Plaintiffs allege claims for (1) breach of contract, (2) unjust enrichment, and (3) violations of the Florida Deceptive and Unfair Trade Practices Act.

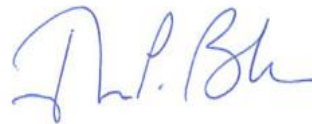
Under Federal Rule of Civil Procedure 12(d), a federal court may treat a motion filed pursuant to 12(b)(6) as a motion for summary judgment to consider matters outside the pleadings. The parties must be given appropriate notice and the opportunity to present materials pertinent to the motion.

Upon review, it appears that the issues before the Court – including whether there is an enforceable contract between the parties – would be more appropriately and efficiently resolved through summary judgment. Therefore, pursuant to Fed. R. Civ. P. 12(d), the present motion to dismiss under Rule 12 is converted into a motion for summary judgment under Rule 56. *See David v. American Suzuki Motor Corp., et. al.*, 629 F. Supp. 2d 1309, 1318-21 (S.D. Fla. 2009); *Dondalson v. Clark*, 819 F.2d 1551, 1555 (11th Cir. 1987). It is therefore

**ORDERED, ADJUDGED, and DECREED:**

- (1) “Defendants’ Motion to Dismiss Plaintiffs’ Amended Complaint and Strike Plaintiffs’ Jury Trial Demand” (Doc. 41) is hereby converted into a motion for summary judgment and will be reviewed pursuant to Rule 56 of the Federal Rules of Civil Procedure.
- (2) The parties are directed to file any necessary supplementary evidence or briefing on or before November 11, 2020. Any briefs should not exceed ten pages. By allowing additional evidence and briefing, the Court is not suggesting the parties are expected to make additional filings – this is an option, not a requirement.

**DONE and ORDERED** in Chambers, in Tampa, Florida, this 28 day of October, 2020.



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**TOM BARBER**  
**UNITED STATES DISTRICT JUDGE**